

H Philpot.

Empt. Exon: Sep. 1st 179

Ref. 2

A N A L Y S I S
OF THE
Science of Legislation,
FROM THE ITALIAN
OF THE
CHEVALIER FILANGIERI.

Οὐκ ἔστιν ἄδιν κρείττονος, ἢ νόμοι πόλει
Καλῶς τιθέντες.

EURIP. IN SUPPLIC.

L O N D O N:

PRINTED FOR G. G. J. AND J. ROBINSON, PATERNOSTER-ROW.

NEW YORK

Science of Legislation



CHEN

...

...

...

...

...

ADVERTISEMENT

To the REVIEWERS.

AT a moment when the minds of men, influenced by the prevailing spirit of the times, feel an unwonted bias to legislative speculations; a systematic work, which may direct their researches into the principles of government, and prevent their being led to dangerous conclusions by the plausibility of those arguments, with which interested sophistry is perpetually labouring to conceal the light of truth, cannot fail to conciliate the public indulgence. Notwithstanding the many excellent productions of a political tendency which at intervals have appeared in England, it may be doubted whether the national character has yet attained energy sufficient to counteract the artifices of party eloquence. Daily experience convinces us that even in this enlightened period the dictates of reason and of policy are too often sacrificed to appease the clamours of interest. Our opinions are determined rather by the

A

stubborn-

stubbornness of prepossession, than by the influence of judicious enquiry : and the distrust which accompanies our prejudices, while it prompts us to view the exertions of our countrymen with the jealous eyes of partisans, effectually prevents our deriving any considerable benefit from their abilities, however they may be distinguished by accuracy in reasoning, or by impartiality in deciding on these perplexed though important questions. Under such circumstances it seems peculiarly seasonable to introduce a *foreign* Author to notice, whose arguments, unsullied by the remotest suspicion of interest or national attachment, may be examined by all parties without diffidence or apprehension. The Translator, imagining the *Chevalier Filangieri's Science of Legislation* to be a system worthy the attention of his countrymen, offers the Author's plan to the consideration of those, to whom Criticism has delegated her authority, from whose literary decisions few withhold their assent.

Two volumes of this work, to which the Introduction and Analysis now translated were prefixed, appeared at Naples a short time previous to the year 1782, and having been distributed over Italy with general approbation, soon passed through a second edition. The Author continued

to

to prosecute his undertaking until his death, which happened about a year since: Before this event, four books, comprised in seven volumes octavo, had been published; and the materials necessary for completing those which remained unedited were left in proper arrangement.

The following pages have been cautiously compared with the original, and although a literal translation has by no means been aimed at, it is presumed they may at least lay claim to the praise of fidelity in all that regards the Author's sense. In a few instances, it has been thought necessary to vary in a slight degree from the words of the original, for the sake of conveying the sentiment with greater perspicuity. Should any obscurities yet remain, the candid critic will be persuaded that these are altogether unavoidable, when he considers the multiplicity of objects comprehended in so concise an analysis of a subject so extensive.

If his intention be not defeated by an unfavourable reception of the present publication, the Translator means without delay to print two volumes, which are already prepared for the press. He is inclined to an opinion, that the
liberal

liberal and manly stile adopted by this writer, in exposing the numerous errors which disgrace our present systems of jurisprudence, the sagacity which seems to have pointed out remedies necessary to be applied to these errors, the enthusiasm of liberty and the amiable spirit of philanthropy which pervade his whole theory, not to mention the prophetic effusions which animate many passages of his work, will render a translation, executed with fidelity, by no means unacceptable to an English reader.

W. KENDALL.

4 OC 58

EXETER, February, 1791.

The

THE
S C I E N C E
O F
L E G I S L A T I O N.

INTRODUCTION.

WHAT are the sole objects that have hitherto engaged the attention of the Sovereigns of Europe? A formidable arsenal, a numerous artillery, a well-disciplined army. All the propositions that have been investigated before Princes, have been merely preparatory to the solution of a single problem: *To find the method of killing the greatest number of men in the least time possible.*

The discovery of a murderous *evolution* has been proposed as an object of reward. A gra-
B tuity

tuity for the Husbandman, who in the time that others were forming one furrow, was alone capable of compleating two, hath not been once made a subject of consideration; while the Gunner who possessed the art of loading a cannon in four seconds, hath been doubly recompensed. So expert are we become in this destructive business, that we have it in our power, in the space of a few minutes, to annihilate twenty thousand fellow-creatures. The perfection of an art so fatal to humanity opens to us the clearest prospect of a fundamental defect in the universal system of government.

For more than half a century hath philosophy been declaiming against this military Mania; for more than half a century have Philosophers been labouring to divert the attention of Princes to more useful objects; nor, since the time of Montesquieu, have we had an author who has not intimated to mankind the necessity of a reform in legislation. *There is scarcely a writer of any period*

period, says a great man, whether Poet, Orator, or Philosopher, whose genius is not fettered and confined by surrounding circumstances. Nature in every æra impresses (if we may use the term) the same seal on the minds of all: The same objects inspire the same ideas. The present common object of thinking men is legislation. The errors of jurisprudence surround us: every writer seeks to expose them; and from each extremity of Europe to the other, one voice alone is heard, which tells us, the laws of Latium are no longer calculated for Europe.

This union of voices, this universal clamour, this cry of reason and of philosophy, has at length reached the Throne. The scene has changed, and Princes have begun to discover, that the lives, and the tranquility of men, demand greater regard; that there are means, independent of force and arms, to arrive at greatness; that good laws are the only support of national happiness; that the goodness of laws is inseparable from their uniformity; and that this uniformity is not to be found

in a legislation framed at intervals during twenty-two centuries,* promulged by different legislators, in different governments, to different nations, and which has blended all the grandeur of the Romans, with all the cruelty of the Lombards.

Great would have been the progress towards the happiness of the people, had it been demonstrated to Sovereigns, that legislation deserves a reform. But a more interesting progress has already been made : the obstacles are removed.

The people are no longer slaves : The Nobles are no longer tyrants. Despotism has banished feudal anarchy from the greater part of Europe, and manners have enfeebled despotism. Had not the vast machine of feuds first received a shock, no useful reform in the laws could have been expected. When the greater part of the human race was deeply immersed in depravity ; when all
rights

* The origin of legislation may be deduced from the year of Rome, 303, when the laws of the XII. Tables were enacted.

rights were uncertain, and the decisions of the sword were preferred to the decrees of justice; when oppression prevailed on every side, because those, whose duty it was to obey the laws, were more powerful than those who enacted them; when the hatred, inevitably subsisting between weak and jealous neighbours, placed barriers on every side, impeding mutual communication; when every city, every country was divided; could a reformation in the laws be undertaken? could so many opposite interests be brought to coincide? Who, amidst the gloom of a military, superstitious, and ferocious government, could have the courage to search into an object so very complicated? Who could have combined relations so numerous and various? Kings, who enjoyed not the greater part of their prerogatives, were too weak to support such an undertaking: The Nobles (who had dissolved the bands which united them to the state) were too powerful to suffer a reform to be attempted, whose first operation must have stripped them of the rights they had themselves

selves usurped ; and the remaining part of the citizens, with minds debased and degraded, were too ignorant either to propose or to conduct an enterprize of this magnitude.

As the state was then divided into as many parts as it contained feuds, and each of these parts being in a state of solitary independence ; talents, deprived of communication, were restricted to a certain sphere of light and intelligence, from which they could never be extricated. Divided as these interests were, their very insignificance must have tended to debilitate the powers of genius, and to prevent ideas from expanding. Legislation must have appeared an object too sublime, and too complicated for a mind accustomed to no other sky than that under which it was born ; to no other species of government, nor other interests, than those of an oppressive tyrant. In this situation of affairs, neither a Montesquieu, nor a Locke would have appeared, nor any of those men necessary for preceding to enlighten
and

and direct the state in important enterprizes. To break down these barriers, to give genius that degree of energy, which the execution of so difficult a task demanded, it was necessary that Sovereigns, out of so many scattered masses, should begin to form some connected bodies; it was necessary to re-establish mutual ties among mankind; and above all it was necessary, that men should cease to be slaves; for nature has withheld from slaves the faculty of thought.

The first obstacle being removed, another difficulty remained to be overcome. The public good demanded, that whatever opposed the progress of intellectual improvement, should be eradicated. Without this, every reform, particularly a reform in the laws, must have been defective, and ruinous in its consequences. The power of the Nobles being shaken, it was necessary, in preference to any other object, to dissipate those errors which fanaticism had rendered sacred, and ignorance, too easily seduced, had adopted. That this end

might

might be accomplished, philosophy came in aid of government, an event which has produced the most salutary effects. *Superstition* exists no more. This avowed enemy of every useful reformation, this lever which shakes the earth, while it fixes its point of rest upon the heavens; this tyrant over genius, that has in all ages declared war against those whom, to the lasting benefit of others, but their own temporary disgrace, nature hath condemned to be wise: that in Greece sentenced Socrates to die, loaded Anaxagoras with chains, banished Demetrius Phalereus; in Holland raised a pile for sacrificing to oblivion and to the zeal of a weak Minister the works of Descartes; in England persecuted Bacon*; in France accused Gerbert of magic, and even disturbed the ashes of the solitary restorers of science and morality:—*Superstition*, which by perpetuating ignorance and error among men, would have for ever hindered or destroyed the beneficial influence of every proposed reformation; *Superstition has been proscribed:*

and

* Roger Bacon.

and religion, which fanaticism had for ages bathed with the tears of thousands, and imbrued in the blood of nations, has become what it ought to be, and what in its primitive state it ever was, the bond of peace, and the basis of social virtue. The Priesthood is no longer busied in matters of government: The State is more tranquil, and the Altar better served.

All is changed: Political opinions themselves, have lost that character of ferocity and intrigue, which instead of an useful, had a pernicious tendency. Sentiments, which if not asserted as maxims, were at least broached as opinions worthy attention, by a politician, who has obtained the praises, how much soever he may have hazarded the rights of mankind*, are no longer heard. Let a new Machiavel now dare to assert, that a Prince who would support himself, should learn *not* to be virtuous, except when his necessities require it;

C

that

* Machiavel.

that he should preserve with care his own property, and lavish that of the public ; that he should not fulfil his promise, unless it can be done without disadvantage to himself ; that he ought not to *be*, but to appear, virtuous ; that he should *seem* humane, faithful, just, and religious, but be in reality the contrary ; that it is not possible for him to adhere to all which makes other men accounted good, since the necessities of the State oblige him often to act in opposition to humanity and to religion ; that he should bend his spirit in obedience to the blast of fortune, as long as possible, without departing from right, yet make no scruple of committing wrong, if it promote his interest : Let this new Machiavel finally endeavour to seat vice by the side of the Throne, all mankind shall rise united to oppose him, and the public detestation shall be the just recompence of his villainy.

A reform in the laws could hardly be desirable at a time when those who were to propose and
conduct

conduct it thought and wrote in this manner. But at present, to all the advantages resulting from a general change in opinion, is added another, the most necessary, but perhaps the most difficult to be obtained :—The right of declaring the dictates of truth to Princes, with impunity.

It is well known that in these latter times the Subject of a great King in Europe, whose office it was to address his Prince at one of the most august ceremonies of State, at the moment of coronation, when in other times the chains of the people were strained ; at such a moment did this bold Subject dare to call his King before the tribunal of public opinion, reminding him that from this tribunal he must one day receive judgment : and had the courage to point out at a small distance, that line in which his rights ended and his indispensable duties began.* This language which

C 2

since

* In this stile was couched the celebrated oration of the Bishop of Aix, delivered in the presence of Louis XVI. on the day of his coronation at Rheims.

since the overthrow of Greece, and the servitude of Rome, had been no longer heard among mankind, is now become the general language of Writers and Philosophers; so that if the concealing truth from Princes be the constant cause of perpetuating misery; if silence be in all ages the support of tyranny and disorder; if in fine, to obtain a reform in legislation, it be necessary first strenuously to oppose the unreasonableness of ancient laws, and the calamities occasioned by weak and defective administrations; the obstacle now surmounted is by no means inconsiderable. We have assumed the right of thinking and writing with a freedom that does equal honor to the Princes who permit, and to the Subjects who use their permission with propriety and advantage.*

The obstacles being removed, nothing remains for us but to undertake the reform of legislation. This appears the last stroke required to compleat the

* *Rara Temporum felicitate ubi sentire quæ velis et quæ sentias dicere licet Tacit. Histor. Lib. 1.*

the great work of human felicity : and the situation of every surrounding circumstance seems preparing its completion.

Europe, during eleven centuries the theatre of war and discord ; crushed by the ruins of the Roman Empire ; afflicted and flying before the arms of Attila ; by turns possessed and ravaged by settlements of Barbarians, by incursions of Normans, by the anarchy of Feuds and the sacred wars of the Crusades ; by continual contests between the Priesthood and the Government, by religious disputes, which changed the moral system and perpetuated ignorance ; oppressed in short by the tyranny of numerous petty despots ; filled with Fanatics and Warriors, and every where inflamed by the destructive fury of parties ; is now become the seat of tranquility and reason. That stability of Monarchies, which has been produced by confederacy and alliance, opposes a barrier to the ambition of Princes, and obliges them to study the true interests of their people. Law and Legislation

gislation are become the chief subjects of conversation in courts. Already in aid of that portion of humanity which Europe possesses, a pacific revolution is preparing. The disorders that oppress her inhabitants, governments have beheld in all their deformity. No longer disturbed by the din of arms, they have heard the groans, they have observed the tears of a crowd of victims which a legislation at once artificial, obscure, intricate, and by no means adapted to the present state of things, is every day sacrificing. Already remedies for this malady are sought in every quarter, and in every quarter may be observed a salutary ferment, affording us hopes that the opening of the bud of legislation is not far distant. Shall *I* then venture to lend my assistance, to hasten this sublime production.

The glory of a Writer is to prepare useful materials for those who govern. Princes have not leisure for instruction. Constrained to action they are agitated by an impetuous motion. Their minds have not time to rest in contemplation on themselves.

themselves. They must trust to others the care of seeking the means necessary to facilitate salutary enterprizes. *To the Ministers of truth then, to peaceful Philosophers, belongs this sacred office.*

It must be allowed, by what unhappy destiny I know not, that the Man of Letters is not always admitted to discuss the great interests of state before Princes. He cannot penetrate into that respectable assembly where the Sovereign presides to fix the fate of citizens. The liberal Philosopher has no resource but to trust his soul to writings, mute interpreters of his sentiments. But every thing is to be hoped for in an age when the spirit of literature is not incompatible with the spirit of sovereignty, in an age when the rapid course of imagination is no longer impeded by the obstacles with which despotism was wont to oppose it.

With this hope, I am induced to undertake so arduous, and so complicated a work. In writing the Science of Legislation, I have no other end
than

than to facilitate the undertaking of a new system of laws by the Sovereigns of the present period.

It is remarkable, that among so many Writers who have given themselves up to the study of law, some have treated the subject merely as Lawyers, some as Philologists, some again as Politicians, including in their plan one part only of this immense edifice: Some, like Montesquieu, have reasoned rather on what *has been* done than on what *ought* to be done: but not one has yet given us a complete and rational system of Legislation; not one has yet reduced this subject to a certain and regular science, uniting means to rules, and theory to practice. This I undertake to do, in the following work, intitled *The Science of Legislation*.

Ye Princes now on the throne, if it be your province to examine my principles and to censure my opinions, with the immortal Montesquieu, I beseech you not to condemn from the reading of a few minutes a work of many years: nor to cast
the

the reproach of fanatic innovator, on a Writer, who sometimes passes the bounds of blind custom, to seek usefulness in novelty.

Man, instructed by the discoveries of his ancestors, receives their thoughts as a patrimony, and this is a deposit which he is bound to transmit to his descendants augmented with some opinions of his own. Though the greater part of mankind neglect this sacred duty, I here avow my intention to fulfil it, equally estranging myself from the servile pedantry of those who would change nothing, and the arrogant vanity of those who would destroy all.

This work will be divided into seven books. In the first book will be unfolded the *general* rules of the legislative science; in the second, laws *political* and *æconomical* will be treated; in the third, *criminal* laws; in the fourth, that part of the science will be explained which regards *education*, *manners*, and *public instruction*: in the fifth we shall

treat of those laws which respect *religion*; in the sixth of those respecting *property*; in the seventh and last book, we shall speak of laws, which relate to *paternal authority*, and the good order of families.

The multiplicity of objects comprized in this work, obliges me to prefix a plan of it. This will be a complicated picture, wherein the figures will be very minute, yet distinct. *I intreat those who mean to peruse the book, not to neglect this plan*; since it appears to me necessary for explaining the system and order of the work, and giving a general idea of all the parts, which compose the immense structure of legislation: more especially does it seem necessary, in as much as I have it not in my power for the present to publish more than the two first volumes.

SCIENCE

OF

LEGISLATION.

ANALYSIS* OF THE WORK.

LIB. I. **I**N every science it is necessary to premise certain principles; the foundation of the edifice intended to be raised.

The first point, and the sole and universal object of the Legislative Science, is **PRESERVATION** and **TRANQUILITY**.

This preliminary truth we deduce from the simple principles of the union of mankind, and

D 2

from

* The Author's words are 'Piano Ragionato:' Analysis, though not of a signification entirely synonymous, seems sufficiently to convey the meaning.

from the very nature of man : and in the science of government it is that point, wherein all the rays intended to be drawn from the circumference of the circle must concentrate.

But man cannot be preserved without means, nor be tranquil without being secure from molestation. *Possibility then of existing, and of existing with ease ; liberty of increasing, improving, and preserving his property ; facility in the acquisition of means necessary or useful for the enjoyment of life ; confidence in government ; confidence in the Magistrates ; confidence in his fellow-citizens ; certainty of not being disturbed while acting in conformity to the dictates of the law : these are the results of the universal principle of Preservation and Tranquility. Every part of Legislation should tend to one of these results. Every law, which does not afford one of these advantages to society, is consequently useless.*

These principles being settled, we shall pass on to unfold, with the utmost brevity possible, those
general

general rules; without which the Science of Legislation would be deprived of fixed and certain grounds; and would be at the same time vague and unstable.

By beginning to distinguish the *absolute goodness* of laws from their *relative goodness*, by determining the precise idea of each; by distinguishing the harmony that ought to subsist between the law and the principles of nature, and the relation it should bear to the state of the nation for which it is enacted, by unfolding the more general principles dependant on this double character of goodness so necessary to every law; by observing the consequences thence derived; by shewing the errors of laws, the necessary diversity, and even frequent opposition of legislations; the vicissitudes of codes; the necessity of correcting them; the obstacles which render these corrections difficult, and the precautions which make these obstacles vanish; by taking into view, I say, all these objects, we shall do no more than give a general idea of the
theory

theory of the *absolute goodness* of laws, and prepare ourselves for the examination of the far more complicated theory of their *relative goodness*: which forms, if we may use the expression, the aggregate of all the general rules of Legislation.

If this goodness consist in the relation which laws ought to bear to the state of the nation for whose use they are enacted, we must see what are the component parts of this *State*. We shall find them in the nature of the government, and consequently in its principle of action; in the genius and inclination of the people; in the climate, a force always active though always concealed; in the nature of the soil; in the local situation; in the greater or less extent of the country; in the infancy or maturity of the people; and in the religion, a divine force, which as it has a powerful influence on the manners of the people, ought to call the first attention of the Legislator.

They who may read this book, must not be surprised if they find some of those subjects touched
upon,

upon, which the Author of the Spirit of Laws has so diffusely treated. When they arrive at this part of my work, they will see, that the end I propose to myself is entirely different from that of this Author.

Montesquieu seeks in these relations the *spirit* of laws, and *I* seek the *rules*. *He* attempts to find in them reasons for what has been done, and *I* attempt from the same source to deduce rules for what ought to be done. My very principles will be, for the most part, different from his: things will be considered under another aspect; and content with searching for that alone which tends to my present purpose, and willingly rejecting whatever decoration and scientific pomp might usurp over that species of temperance, which ought to predominate in works consecrated to public utility; content, I say, with this sobriety of erudition, I shall confine to a few sheets, a theory, which differently managed would demand numberless volumes. I cannot however omit confessing how
much

much I owe to the labours of this great man.* It is a tribute of gratitude which I offer to one who has thought before me, and by his very errors has instructed me to gain the paths of truth.

From examining the relation which the laws should bear to these various objects, we shall deduce the *general rules* of Legislation. This will be a part of the Science which may be rendered useful in every government, in every climate, at all seasons, and under all the particular circumstances of the situation, extent, and fertility of the country ; cultivation, genius, infancy, or maturity of the people. This will be the aggregate of those general principles whereunto the particular ones thence developed must constantly be referred. It is this, which by generalizing our ideas of Legislation, will afford us an opportunity of observing the different objects, the different views, and the different tone necessary to be assumed among different people, or even the same people at different seasons :

* Montesquieu.

seasons ; will make us observe in the variety of constitutions and forms of government the different faults attached to each, and the diversity of remedies necessary to be applied ; will discover the sole principle of action that produces political motion in every civil society, and point out the different direction that should be given to this sole principle in different governments ; the influence which the universal genius of nations, and the spirit of the age as well as the particular genius and inclination of the people for whom it is intended, should have on the spirit of a Legislation ; what effects may be derived from the climate either by seconding its influence when useful, or opposing it when destructive : This will enable us to see how the nature of the soil, its fertility, its barrenness, its extent, its situation, should influence the economical part of Legislation ; and what a diversity must be produced in the moral part by the errors of false religion and the excellence of the true : how amidst a nation involved in the first, we should sustain with one hand what we overthrow with

E

the

the other; and how among a people enlightened by the second we must guard those doctrines from impostors who change, and infidels who bring them into disrepute: this in short will be a part of the Science, which by giving us occasion to observe the different ages of nations, and the different periods of their life, will point out to us how Legislation should attend to these different periods; how it should adapt itself to their infancy, how make use of the fervour of their youth, how it should wait for and take advantage of the favourable æra of their maturity, and how prevent that of their decline and death.

These will be the first views of this work. But these general views would only give us a confused idea of the whole, or rather of the mere superficies of this immense structure. To arrive at a perfect knowledge of it, we must observe its parts; we must observe the relation each of these ought to bear to the other, the materials of which it should be composed, the foundation on which it should be raised.

In

In order to succeed we shall begin by decomposing the vast machine of Legislation, and distinctly considering its parts. Every thing will be reduced to a minute examination, and objects the most concealed and least known, will not on that account be passed over:—for in government as in nature the most obscure fibres of plants hidden in the bowels of the earth are really those whereby the most majestic woods are nourished and supported. We shall therefore begin with laws *political* and *economical*.

LIB. 2. The objects of these laws are two, *Population* and *Riches*. The State has occasion for men, and men must have means of subsistence. Their number is always proportioned to their happiness. These two objects then, which compose national felicity, are reciprocal. Population shall engage our first attention.

After some short reflections on the system of legislation adopted by the ancients, and particularly

the Jews, Persians, Greeks, and Romans, we shall proceed to demonstrate that no encouragement to population can avail, unless obstacles be first removed. On this rock the greater part of Legislators have struck. Let us turn over the dusty and numberless volumes in which the Chaos of European Legislation is comprised, and we shall find no one government that has not reserved some prerogatives for the fathers of families, that has not granted some privileges and exemptions to those citizens who have given a certain number of children to the State ; that has not provided some express laws to increase the number of marriages. But in spite of all, the sterility of nature continues ; Procreation is slow ; in the very bosom of voluptuousness marriages are rare ; a vast grave, in which a whole generation with all its posterity disappears, is daily opening, and Europe wants and could contain at least an hundred million more inhabitants. After having demonstrated these truths by the clearest calculations, who can entertain a doubt that there is in this instance a flagrant fault in the systems of Legislation ?

I do

I do not deny that the means hitherto adopted by Legislators for the encouragement of population, have had some degree of utility, but they can be considered only as so many slight impulses which might perhaps have assisted the motion of the machine, had no obstacles opposed; but the resistance of the one infinitely exceeds the influence of the other.

We must then search for these obstacles, and we must also find means to overcome them. To these two objects we shall reduce that part of the Legislative Science which respects the multiplication of the species.

By observing the distresses of the people, and the wretched state of agriculture; the luxury of courts, and the miseries of the country; the excess of opulence in the hands of a few, and the want of necessaries in the majority; the small number of proprietors, and the immense number of those who are not proprietors; the multiplicity of re-
sources

Sources united in few hands ; the abuse of estates ; the caprice of laws, and the rapacity of finance ; the establishment of standing armies, and the celibacy of soldiers ; the misfortunes which their maintenance occasions among the people, and the chasm which their celibacy leaves in generation ; the double obstacle to population which this occasions, and the terror it affords to the liberty of the citizen ; by observing the progress of public incontinence and its origin, the poverty to which it owes its rise, and the violent celibacy of some classes of citizens by which it is excited, the errors of jurisprudence which protect it, and the sterility consequent thereupon ; by observing, I say, these and other similar evils which distress Europe, we shall have no great difficulty in finding out the real causes, and the true obstacles that impede the progress of population in the nations by which it is inhabited, and consequently shall have no great difficulty in finding the proper remedies that a wise Legislation ought to apply.

Having

Having treated in this manner, and on these principles, that part of political and economical laws which respects the multiplication of the species, we shall turn our attention to the other object of these laws. We shall begin to speak of Riches.

However barren this object might have appeared in the politics of those ages, in which poverty was the first step to the virtue of the man and the citizen, it is now become the first principle of national felicity. This reflection will lead us on to the examination of a truth in the knowledge of which we are deeply interested: it is, that we owe all our prosperity to corruption, and that to arrive at greatness we have been obliged to abandon those virtues whereby the antients were conducted to the same end. Strange prodigy of human inconstancy! Industry, commerce, luxury, and the arts, means which in other times contributed to enfeeble states and perhaps gave up Tyre a prey to Alexander, and Carthage to Scipio, are now become the firmest support of a people. And in truth,
since

since the time of the foundation and overthrow of Empires has passed away ; since that Man is no longer found, before whom the whole earth was silent ; since Nations, after the repeated shocks and perpetual contests either of ambition or liberty, have at length settled in a state of repose, by which they are rather induced to seek tranquility than greatness and glory ; since gold has become the universal measure, and the greatness of states is reduced to a matter of calculation ; since the commercial and agricultural have triumphed over the warlike nations ; since the deprivation of merchandize, the exclusive trade in spice, and the importation of cinnamon from the Indies have been sources of the most fatal contentions ; in short, since wealth is no longer the means of corrupting the people, because it is no longer the fruit of conquest, but the reward of assiduous labour, and of a life entirely employed ; Riches, and the channels whereby they are conveyed, are with reason become the principal objects of Legislation.

What

What then must be the cares of the Legislator on so interesting a point? we shall separate them into two classes. He must procure wealth for the State; he must divide it well, diffuse it equally. What means then should Legislation employ to obtain the first of these ends, and what to arrive at the second? If agriculture, the arts, and commerce, be the three sources of wealth, what kind of protection is proper for each? which of these merits the preference of the laws; and what circumstances should decide this preference? how are we to reconcile the progress of the one with the others? how protect agriculture in an agricultural country, without neglecting the arts; how unite their improvement with that of commerce; how extend the views of the husbandman to trade, and of the trader to husbandry? how unite each to the other by close and continued relations? what obstacles are opposed to this union by the abuses of administration, by the extreme inactivity of government, by the caprice of the civil laws, by the barbarism of the feudal codes, by the remains

of the antient spirit of pasture and hunting of our savage progenitors, by the legal attempts against real and personal property, by the course of public justice, by the abuses of public credit, by the alienation of the revenues of the Prince, by national debts, by exclusive privileges, by corporations, by false maxims in politics, and by the present system of taxation? If by its errors this system cause at the same time the ruin of population, of agriculture, of industry and of commerce; if it estrange men from marriage, and depopulate the country; if it unnerve the arm of the artist, and shut up the ports of nations; if it endanger the security of the citizen, and the liberty of the man; if it deprive the traveller of repose, and the merchant of property; if it expose both to all the snares of a complicated Legislation, which sows crimes with prohibitions, and penalties with crimes; if it alienate village from village, town from town, and city from city; if it introduce a state of war, and disseminate discord among the members of the same body, among the subjects of the same Empire,

pire, among the sons of the same country; if it occasion the rights of nations to be violated by the very men who ought to protect them, the rights of the citizen by the citizen, those of the man of the people by the man of the Prince, and those of the merchant by the financier; if, in a word, under whatever view the present system of taxation is considered, it be always found the proximate cause of the ruin of nations, and the misery and oppression of the people, in spite of the moderation and humanity of those who govern: what are the necessary amendments which the Legislative Science should propose with respect to this object? on what principles should the grand theory of taxation be founded; on what objects should taxes fall; what class of citizens should more immediately pay them? how must we proportion them to the ability of the people? how assess them on the net produce of the revenue of the nation? how ascertain this net produce? how diminish the number of direct contributors favouring at the same time the increase of the tribute? how com-

bine by a different system of contribution, a just proportion, with the least difficult, least expensive, and least arbitrary exaction, the ease of the people, with the opulence of the body politic, with the prosperity of agriculture, with the arts and with commerce, and the riches of the nation with the riches of the Sovereign? How should these means be employed for facilitating the diffusion of wealth? what obstacles oppose this diffusion? what resistance may be apprehended from luxury? under what aspect should luxury itself be considered; how be regulated without offence to the liberty of the citizen? and how by its assistance may excess of opulence be prevented, which only leads to excess of misery? what are the cases in which even he who is supported by the aid of foreign industry should be considered as a necessary instrument to the prosperity of a State? what nations of Europe ought to have regarded *passive luxury* as the support of their agriculture, their industry, their commerce?

Their

Thus have I given a slight sketch of the series of principal objects intended to be taken into consideration in the second book; wherein Political and Economical Laws will be discussed. We shall pass on thence to Criminal Laws.

LIB. 3. If population and riches be the objects of political and economical, *security* and *tranquility* are the scope of Criminal Laws. The first tend to the *preservation*, the second to the *repose* of the citizen; in which two objects, as we have before said, the whole Science of Legislation is comprehended.

By examining into what must be understood by tranquility, we shall find it to be inseparable from security, and that this security can consist in nothing but the consciousness or idea which every citizen ought to entertain, of not being in danger of disturbance, while acting conformably to the dictates of the laws. Now this species of political liberty, which ensures all classes, all conditions, all orders

orders of civil society, which keeps the magistrate within bounds, and gives to the weakest citizen the united strength of the whole nation ; this voice which cries to the powerful ‘ *thou art the slave of the law,*’ and reminds *the rich that the poor man is his equal* ; this power, which in the actions of mankind, invariably overbalances any selfish benefit to be derived from a violation of the laws by the greater advantages which attend an observance of them, can only be the result of the criminal part of jurisprudence. On the following plan then we shall treat that part of the legislative science which relates to the enacting these laws. We shall begin with examining in what manner judiciary accusation and defence ought to be conducted in a new Legislation ; what should be the order of criminal suits ; what the principles and rules to determine the proceedings ; what the nature and form of the acts which should constitute them ; what would be the most salutary means of extirpating from a nation the noxious weed of calumny ; whether it would be prudent to adopt any of the laws of the ancients particularly directed to this object ;

object ; whether the tediousness of suits be favourable to the liberty of the citizen ; whether the system of dragging the accused person to prison before the offence is ascertained, and there confining him till the termination of the suit, be not inimical to this invaluable privilege ; whether the law may deprive a citizen of his personal liberty in order to be assured of his innocence, whether it may suppose him guilty because accused ; whether it may injure before it has condemned him ; whether it be not in capital crimes alone that this violent, but then necessary step ought to be taken, because with whatever punishment the accused might be threatened, whatever security might be demanded from him, they would be always insufficient to prevent his flight ; whether, in all other cases, it would be prudent to adopt the English law of *habeas corpus* : what modifications might be given to this law, as well in favour of the personal liberty of the citizen, as of the public safety ; in what cases the confession of the Criminal should be required, and in what manner it should be sought from him ;

whether

whether in short, it would not be more just, and more consistent to dispense with, than to force it from his lips by the aid of torture.

Passing from the examination of the principles, by which in a wise Legislation it would be proper to conduct the order of criminal proceedings, and judiciary accusation and defence, to those whereby the nature of actions which the law ought to consider as crimes, should be ascertained, as well as the manner of punishing them, we shall distinguish which of these crimes ought to be considered as public, and which as private; which as offensive to the Deity, to the Sovereign, to the Government, to public order, to public faith and to the rights of nations; and which to the private security of the Citizen, to his life, to his honour, to his property, his family and precious rights. We shall then examine in what manner the law must find punishments adapted to the nature of every species of crime; and how proportion them to the degree of guilt; in what manner legal sanction should distinguish

tinguish the person of the delinquent, the circumstances of the crime, the facility of commission, the injury which the greater or less hopes of impunity inspired by this facility may occasion, and the greater or less instigation the citizen may have to commit it; how, when, and with what moderation, the Legislator should avail himself of capital punishments; to what offences it might be prudent to annex the punishment of infamy; how punishments of this nature ought to conform to, and not oppose the public opinion; with what reserve, what solemnity, what œconomy they should be used by the Legislator; how the idea of infamy vanishes in proportion to the number of those rendered infamous; how pecuniary punishments should be conducted, whether they ought even to have a place in the plan of a good criminal Legislation; whether (having determined to make use of these punishments) the wealth of the offender should be taken into consideration, as well as the circumstances of the person offended, and the nature of the offence; whether those punishments which

deprive criminals of the company of other citizens, rendering them at the same time useful to society, should be preferred to all others ; whether amid the multitude of crimes there be any which the Legislator ought not to punish ; whether in secret crimes, proportionate punishments may not be dispensed with on account of the greater hopes of impunity which these crimes suggest ; whether in real felonious offences (not those to which despotism has given this appellation) it might be proper to cast a veil over moderation for a moment, as in antient times the statues of the Gods were concealed ; whether, in short, impunity be the necessary consequence of excessive rigour, and whether the *certainty* of a moderate punishment would not have a stronger tendency to deter men from the commission of crimes than the fear of one far more severe, when that fear is accompanied with the hope of remaining unpunished.

All these objects will demand our attention in the third book of this work, in which we shall
consider

consider Criminal Laws. We shall then proceed to those relating to education, manners, and public instruction, which will be comprehended in the fourth book.

LIB. 4. Though penal Laws may prevent crimes by terrifying the citizen with threats of punishment, they can be of no avail to the encouragement of virtue. That species of negative honesty, which is derived from the fear of punishment, always favours of its origin: it is pusillanimous, it is low, it is languid, it is utterly incapable of those exertions which Virtue, ardent and unrestrained, demands, when inspired by noble passions.

Fear then may diminish the number of delinquents; but can never give birth to heroes. This sublime production cannot be derived but from the union of various other powers, all directed to this common object. Education being considered as the chief of these powers will call our first attention.

Education is either *public* or *private*. The former is reserved for governments ; the latter for fathers. Laws can only direct the management of the first : they cannot, nor ought they ever to penetrate into domestic recesses. In these the father is King, Magistrate, Legislator, as far as regards the education of his children.

The law then having authority to direct public education alone, and having no reason to expect from any other cause uniformity of principles, maxims, and sentiments, should be careful to abandon the smallest part of the citizens possible to domestic education. To obtain this point, we shall propose a plan of public education for all the classes of the state. I foresee that at first glance this idea will be considered as one of the slow and painful researches of a plodding Philosopher, who imagines he observes every object in the confined circle of vision which surrounds him : but when this shall be explained, when means shall be offered for putting it into execution, and when it shall be found

found that these means are the most simple and easy; then, I trust, a different opinion will be entertained, and it will be confessed to the honour of the Author, that this is far from being a vain project.

Having treated of education, we shall proceed to the regulation of the passions, and begin to analyse the second power productive of virtue; without the knowledge and use of which, a more misshapen, more useless, or more pernicious work than Legislation cannot proceed from the hands of man. This will be one of the most interesting subjects of my undertaking, because on this depends the solution of all the moral problems in the Legislative Science; on this depends the establishment of a truth, in the knowledge of which we are interested more than in that of any other, but which has need of being well explained, as it militates much against a common prepossession.

It

It is imagined by all that virtue cannot take root amidst national opulence. Wretched opinion! to which perhaps we owe the present unhappy state of Legislation. Shall then the lot of humanity be considered so miserable that it must be either poor or vicious? When riches are become necessary to the preservation and prosperity of States, must virtue be excluded from civil societies? cannot agriculture, commerce, and the arts be carried on by virtuous hands? nay, shall luxury itself, at present become necessary to the diffusion of wealth, be incompatible with good morals? was the ferocious spirit of war of the antients, because united with the spirit of frugality, more nearly allied to virtue, than the pacific and laborious spirit of the moderns, because united with the spirit of luxury? This is in truth the common opinion of moralists, but we shall be bold to show that it is rather their common error. We shall demonstrate that ignorance alone of the different roads apparently opposed to each other, but really derived from the same principle and leading to the same end, has
given

given rise to an error so shocking to humanity. We shall show how by taking advantage of the great movement of the human heart, by giving a direction analogous to the present state of things to that principal passion on which all the rest depend, that passion at once the fertile source of so much good, and so much evil ; of so many useful, and so many pernicious propensities ; of so many disorders and so many remedies ; by taking advantage, I say, of *self-love*, a wise Legislation will be enabled to introduce virtue amidst the riches of the moderns, by the same means that the ancient Lawgivers introduced it among the legions of old.

After having investigated the great theory of the regulation of the passions, on which depends the regulation of manners, we shall turn our attention to public instruction, which in this fourth book is the third object to be taken into consideration. Who can fail to observe the influence this must have on the prosperity of a people, on their liberty, and even on their morals ? If man under the direction

tion and persuasion of reason act with greater energy, than when force or fear impel him, unacquainted with his destiny ; if the times of ignorance have ever been times of ferocity, intrigue, meanness, and imposture ; if defective intelligence, by casting a veil over all things, by rendering every right uncertain, by changing, obscuring, and perverting maxims and doctrines, have imbrued thrones and altars in blood, have given birth to tyrants and rebels, have offered to error so many martyrs, to truth so many victims, to fanaticism so many piles, to imposture so many followers, to religion so many hypocrites and enemies ; if involved in ignorance the Prince be never safe from the people, the people never safe from the Prince ; if respect be but meanness, Empire but force, obedience but fear ; if the magistracy be arbitrary, laws uncertain, errors eternal and venerated, corrections hazardous and derided, public opinion despised, administration the patrimony of flatterers who surround the throne, betraying the Prince with one hand and the people with the other ; if true wisdom, ever accompanied by justice,

justice, humanity, and prudence, invite not men to crimes ; if, secure of obtaining sooner or later the triumph she deserves, she have no need, like imposture, to purchase it with the blood and misfortunes of mankind ; if philosophy by proclaiming truth with intrepidity and zeal, by demonstrating to mankind the tragical effects of the tyranny, the superstition and the madness of Kings, the prejudices of the people, the ambition of the Nobles, and the corruption of courts, by discovering to Princes their true interests, and sometimes obliging them to blush at their faults ; have never kindled the flame of discord, have never produced factions in the State, have never, like ignorance, seized the dagger of regicide ; in a word, if those who rule, as well as those who obey, find their true interests in the improvement of reason ; it is right that the Science of Legislation should not be silent on a point so interesting, though so much neglected in our codes ; it is right she should examine what obstacles oppose this improvement, and what are the means

to remove them ; what the direction to be given to talents ; how under the auspices of liberty to recall them to the study of their country ; how to alienate them from pursuits more splendid than useful ; it is right she should consider how the meditations of Philosophers may be made to precede the operations of government, and the ministers of truth to prepare the way for the ministers of Princes, in all that regards the public welfare. She should consider how to avail herself of their ministry in order to dispose the minds of men to necessary reformatations and useful novelties ; how to profit by discussion, that fertile parent of truth ; discussion, produced by the diversity of opinions, when authority ceases to influence the pen of the writer and retards not the course of his speculations ; how to direct all the different talents of men to one common object ; how induce the fine arts themselves to pay a tribute to public utility ; how find out and multiply the channels whereby the superior understanding of the capitals might be diffused over the provinces, and the precious deposit

deposit of useful knowledge be rendered more common ; how finally to obtain, that the citizens themselves, even those employed in the most subaltern arts, may be informed of their duty to God, to themselves, to their families, to the state ; may entertain just ideas of the man and the citizen, and be sufficiently instructed to know all the dignity of their own character and the respect which it demands.

These are questions too interesting to be passed over in a work, whose object is distinctly to analyse all the links which compose that mysterious chain, whereby Legislation should lead men to happiness. We shall next turn our attention to religion. The principles whereby that part of the system should be regulated, which respects the worship and religion of the people will be comprised in the fifth book of this work.

LIB. 5. Public order, private tranquility, the liberty of the Citizen requiring that the law

should not seek to know or wish to see all ; that authority should pause at the entrance of the citizen's habitation, and respect this asylum of his peace and of his liberty, that she should not seek to penetrate into his thoughts or his intentions, but leave free the course of his desires and consider him innocent, though guilty, as long as his guilt be not manifest ; in a word, detaching from the cognizance of the law all that is hid from her eyes requires, at the same time, that another rein should supply this necessary deficiency, that another tribunal, another judge, another code should regulate the secret actions of the citizen, controul his secret transports, encourage his hidden virtues, and direct his very undiscoverable desires to the common good ; should in short, oblige him to be just, honest and virtuous even in those places, at those moments, and under those circumstances in which he is far removed from the eyes of the law and from her ministers. This is the work of *Religion*, when neither enfeebled by infidelity nor corrupted by superstition : These two extremes

extremes, whereof a constant experience teaches us that the first is always the consequence of the second ; these two extremes, one of which deprives religion of its power, and the other makes it the instrument of crimes, enormities, and horrors, which to the disgrace of humanity already too often accompany the bloody ceremonies of superstition ; these two extremes ought to be equally prevented by the laws.

To this general object then will be directed all the principles which we propose to investigate in the fifth book.

We shall examine into the nature of that protection which Legislation should afford to religion and worship ; what *direct* and what *indirect* means it should employ to prevent the two extremes whereof we have already spoken ; what privileges it should grant to the clergy, and what dependance it should require in return ; what rights should be given to the elders of the church, and what species
of

of magistracy should watch over the use they might make of them ; on what principles the article of *ecclesiastical immunity* should be conducted ; how far *real* and *personal* immunity should be suffered to extend ; what restrictions should be given to *local* immunity, and whether it affords any encouragement to crimes ; what requisites the law should demand from each individual of the clergy, and by what proportion their number should be regulated ; what religious orders may deserve the partiality of the laws, and whether any of these orders may be either abolished or reformed ; what should be the age of persons consecrated to holy offices, and what direction the laws may give to their preaching ; lastly, what means should be adopted to provide for their wants : this is a subject peculiarly interesting, for which endless reforms have been attempted, endless writings published, but which will still remain unsettled until a remedy for the evil in its origin shall be discovered, until a reformation shall be directed to the very nature of the clerical revenues.

Having

Having examined these particulars with all the respect due to the sanctuary and to its ministers, we shall turn our view to the laws which respect property: these will be comprised in the sixth book of this work.

LIB. 6. - Every exclusive right which a man possesses of disposing of a thing, is called *property*: it cannot pass either for ever, or for a limited time, to another without his free consent. This consent is either expressed, tacit, or implied. Laws, the guardians of the property of every citizen, prevent violence and theft, by threats of punishment; prevent fraud and deceit, by determining the circumstances that should accompany this consent in order to render it valid: hence arise the solemnities required when it is expressed, the marks which indicate it when tacit, the conjectures that afford a foundation for supposing it when implied; hence the legal requisites sought for in the person who grants it; the different titles whereby he may either for ever, or for a given time,

time, dispose of it in favor of another; the different rights arising from these different titles, and the different obligations thence derived; hence the legal distinction between verbal agreements and contracts;* hence the privileges in favor of minors, and all whom the law considers as such; hence the remedies for frauds;† hence the theory of prescriptions; hence the origin, the reason and solemnity of testaments; hence that of successions *ab intestato*; hence, in a word, all the expedients discovered by the laws to protect the property of each individual from the snares of fraud, and all the means employed by them to distinguish the sacred rights of property from the secret rapine of usurpation.

Thus have we reduced to a single point of view the motive of the numberless laws which now compose the civil codes of Europe, and which have wandered widely from their mark by having sought it with too much minuteness. In this part
of

* Tra patti e contratti.

† Le lesioni.

of the Legislative Science we shall only propose a reduction. By unfolding this system, by divesting it of all extraneous superfluity, by reducing the particular theories of which it is composed to a few general principles, we shall endeavour to shew Legislators with what ease that property might be secured by a few laws, which will be always precarious, always uncertain, always ill-supported, as long as arms, intended to defend it, shall continue superior to the power of those who should have the direction of them ; as long as the multiplicity of laws, their obscurity, and the language in which they are written shall keep them concealed from the people ; as long as the oracles of Themis shall have occasion for interpreters, and as long as there shall be wanting a hand diligent and daring, which after having gathered the few roses that are to be found scattered among the innumerable thorns of the present jurisprudence, may collect into a pile all that remains, as a sacrifice to the God of justice and civil concord.

After having treated of property, we shall at length set bounds to this work with a short treatise on laws relating to *paternal authority* and the good order of families.

LIB. 7. As the well-being of every Body depends on the well-being of its parts, so the good order of the State depends on the good order of families. A society cannot subsist without a governor: in the same manner a family, which is but a smaller society, has occasion for a head to direct it. This head is the father, who must necessarily be invested with some rights over the individuals of which the family is composed. Of this family, since religion, politics, and humanity have combined to oppose domestic slavery, the wife and the children are now become members. We shall next inquire what rights the law should grant to the father over the first, and what over the second. The wonted bias of mankind to extremes, has occasioned an infinite opposition between ancient and modern Legislations on this point: The ancient

cient Legislators certainly yielded too much to the father; but can it be doubted that the moderns have also taken away too much? The fault lies equally in the prodigality of the former and the parsimony of the latter. The demonstration of this most interesting truth will serve as an exordium to the seventh book, in which, after hastily surveying ancient and modern Legislations, we shall ascertain the errors of each with the greatest impartiality.

We shall show that if justice, the public interest, and morality, were injured by the rights which the primitive Legislators yielded to the fathers of families; if the throne they sought to raise for the father in the bosom of his family were too independant; if the right of disposing of the life of his children endangered public authority; if the right of exposing and selling them were an outrage to nature though protected by the laws; if the power given to the husband over the wife were too extensive; if it were rather a property than a

pre-eminence ;* if it were a manifest injustice that the contract entered into for the propagation of the species should give to one of the contracting parties a right of disposing of the life of the other ; if that were a scandalous law of Rome, which in the commencement of the republic gave the husband a power of killing the wife for having drank even with moderation of a liquor, the very abuse of which was not forbidden to the husband ; if the right of divorce granted by the greater part of the ancients exclusively to the husband gave him an unlimited power over the wife, without her being able to obtain a remedy for the abuse of his authority ;† if in a word, the ancient Legislators exceeded

* *Transibant in mancipium viri.* Cicero pro Muren.

† It is true that among many nations in the progress of time the right of suing for a divorce was extended even to the wife ; but the causes which authorised her application, and the obstacles which opposed her success were of such a nature that they almost prevented the advantages intended by the law. To find how difficult it was among the Romans, for the wife to obtain a divorce, while it was attended with no difficulty on the part of the husband, it will be sufficient to read *Novell. 22, Cap. 15, and Novell. 117. Cap. 8, Cap. 13, and Cap. 14.* All these subjects will be examined in their proper places.

ceeded the limits of right and justice, in their determination of the extent of paternal authority, we shall make it appear that the moderns are not therefore less blameable for having in so despotic a manner restricted, or rather destroyed it. It might even be said with truth that public and private tranquillity have been more injured by the defect, than they ever were by the excess of paternal rights. The natural affection of fathers for their children was a great preservative against the unhappy consequences of so extensive an authority; and the very fear it inspired must have rendered the occasions for exercising it extremely rare. Crimes must have been far less frequent in families, when they reflected on the strength, the vicinity, the absoluteness of the hand ever armed for punishment. The extent then of the power and the situation of the person invested with it might restrain its use and prevent its abuse; but what instrument, were paternal authority destroyed, could remedy the disorder of families in which, as hath
been

been observed, that of the state is also involved. Where could an authority be found, which like that of fathers might act at all times with the same vigour; like that, see all and know all; and neither have need of assistance to enforce a respect for its orders, nor of formality in delivering them; which could confide the execution of its decrees to an arm so near the mouth of the enactor; which could neither admit of prevention in the judge nor tardiness in the executioner; which could cause its commands as soon as given to be known, as soon as known executed; lastly, which (after the law had fixed the just limits wherein it should act) could afford no reason for apprehending any usurpation on the part of him in whom this authority would be vested?

From these reasons we shall deduce the necessity of raising anew the edifice of paternal authority, which the ancient Legislators had too much aggrandized, and an ill-founded distrust has now
almost

almost entirely destroyed. But on these foundations with what materials, on what plan should it be constructed? what should be the rights of this new *paternal* magistracy? what those of husbands? how far should their cares extend? what limits should be set to their jurisdiction? what might be the use of their authority? what the remedies to prevent its abuse? what influence might this novelty have on the order of society; what on manners? what obstacles would be opposed to this undertaking by the present system of successions? what by the feudal laws, in those nations where the squalid spectre of this ancient Colossus still exists?

These will be the objects of our discussion in the seventh and last book; and this is the plan of a work, of which I offer two volumes to the public.

Too vast and too delicate a subject is this to be managed by my hands: I confess, it is superior
to

to my strength, my knowledge, my talents; but I am bold to say it is inferior to my zeal. Amidst the errors which will perhaps be found scattered herein, amidst the low stile in which the most sublime truths will be delivered, amidst the infinite defects to be discovered; my heart will always appear—which ambition has not contaminated, interest has not seduced, fear has not debased. The public welfare is the only object of this work, and the zeal with which it is written its only ornament. This is the foundation of my hopes: this the title which gives me a true right to fame.

Sages of the earth, Philosophers of every nation,—O all ye to whom the sacred deposit of knowledge is intrusted, if ye would live, if ye would that your names should remain engraven in the temple of memory, if ye would that immortality should crown your labours, employ yourselves on these subjects, which, over two
thousand

thousand leagues of space, and after twenty centuries, continue to be interesting! Never write for a man, but for mankind: unite your glory with the eternal interests of the human race: abhor the talents so often possessed by those slavish souls that burn a servile incense on the altar of adulation: fly the timid and venal spirit which knows no spur but interest, no rein but fear: despise the vain applause of the vulgar, and the mercenary gratitude of the great, the threats of persecution, and the derision of ignorance: boldly instruct your brethren and freely defend their rights. Then shall mankind, interested in the hopes of happiness to which you point the road, hear you with transport: then shall posterity, grateful to your labours, in public repositories distinguish your writings: then, neither the impotent rage of tyranny, nor the interested clamours of fanaticism, nor the sophisms of imposture, nor the censures of ignorance, nor the fury of envy, shall avail to bring them into disrepute,

or bury them in oblivion; they will pass from generation to generation with the glory of your name; they will be read, and perhaps washed with the tears of those who would never have otherwise known you; and your genius, always useful, will then be the contemporary of every age, and the citizen of every State.

4 OF 58



